



PLANNING COMMISSION RECOMMENDATION

DATE ISSUED: August 21, 2020

SUBJECT: CPZ2019-00030 SHORELINE MASTER PROGRAM PERIODIC REVIEW WITH PROPOSED AMENDMENTS TO THE CLARK COUNTY COMPREHENSIVE GROWTH MANAGEMENT PLAN 2015-2035, CHAPTERS 40.440, 40.450 AND 40.460 CLARK COUNTY CODE, AND THE SHORELINE DESIGNATION MAP

On August 20, 2020, the Planning Commission voted 5 to 0 to recommend to the County Council that it approve the staff recommendation to amend the Comprehensive Growth Management Plan 2015-2035, Clark County Code, and Shoreline Designation Map as follows:

No.	Amendment Location in Comprehensive Plan, Code, or Map	Page # in Exhibit 1	Description
Comprehensive Plan Amendments			
1	Introduction of Comprehensive Plan	p. 3	Integration with other plans. In the Introduction of the Clark County Comprehensive Plan, there is a section called <i>Integration with other plans</i> . This list of associated documents includes the Shoreline Master Program. The proposed change would remove the Shoreline Master Program from this list since the program is fully integrated into the Comprehensive Plan and development regulations.
2	Appendix B of Comprehensive Plan	p.3	Addition of the shoreline map. The shoreline map is not currently included in the Comprehensive Plan. <i>Appendix B – Figures</i> is the name of the appendix which includes maps adopted as part of the Comprehensive Plan. For completeness and improved access to finding the shoreline map, it is proposed that the shoreline map is added to the Comprehensive Plan map set.
3	Appendix H of Comprehensive Plan	p.3	Update Appendix H. Clark County Legislative History of the Comprehensive Plan is summarized in Appendix H of the Comprehensive Plan. Adoption of the above changes to the comprehensive plan will need to be added to the legislative history of the comprehensive plan through inclusion of the ordinance number, adoption date, and the nature of the amendments.
4	Ch. 13 of Comprehensive Plan	pp. 3-4	Introductory/background text. The proposed changes to the introductory/background text of the Shoreline Management chapter of the Comprehensive Plan would update the introductory text and correct a scrivener's error.
Clark County Code Amendments			

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5	CCC 40.440.010(C)	pp. 6-7	<p>Priority habitats and species. To improve code clarity and update the current best available science documents on priority habitats and species, the following amendments are proposed:</p> <ul style="list-style-type: none"> • CCC 40.440.010(C)(1)(b)- clarifies text regarding priority habitats and species areas being defined in the most current WDFW Priority Habitats and Species List • CCC 40.440.010(C)(2) - updates the list of best available science documents regarding priority habitats and species • CCC 40.440.010(C)(3) – specifies that the determination of habitat categories to a site shall be based on the Best available Science that is current at the time the application under review is vested
6	CCC 40.450.030(D)(2)(e)(4) ; CCC 40.450.030(D)(2)(g)	p. 11	<p>Wetland delineation information requirements. To improve clarity on the wetland delineation information requirements, the following amendments are proposed:</p> <ul style="list-style-type: none"> • CCC 40.450.030(D)(2)(e)(4) – clarifies that the wetland delineation site map in the delineation report uses the Cowardin approach to showing boundaries of wetland classes if multiple classes exist • CCC 40.450.030(D)(2)(g) – one wetland delineation requirement for the wetland delineation report states: “Acreage of each wetland on the site based on the survey if the acreage will impact the buffer size determination or the project design.” Amended text would delete the last part of the sentence and the requirement would become: “acreage of each wetland on the site.”
7	CCC 40.450.030(E)(2)	p. 12	<p>Wetland buffer standards. The proposed amendment clarifies that wetland buffer widths are established by comparing the wetland rating category, wetland rating habitat score, and the intensity of land uses proposed on development sites. Wetland rating habitat score is currently missing from this description. This change will improve consistency with current wetland guidelines.</p>
8	CCC 40.450.030(E)(4)(b)(1)	p. 14	<p>Wetland buffer standards. The proposed amendment is in regards to adjusted buffer width for functionally isolated buffer areas. The amendment would remove vertical separation as a de facto characteristic for exclusion from buffers otherwise required by the wetland protection chapter of Clark County Code. This is for consistency with current wetland guidelines.</p>
9	CCC 40.450.040(C)(1)(c)	p. 17	<p>Wetland buffer standards. The proposed amendment corrects habitat corridor buffer standards to apply only to wetlands with habitat function scores higher than five on the rating system form. This amendment would bring this code section in alignment with current wetland standards, and was an oversight in prior revisions to bring code into alignment with current wetland buffer guidelines.</p>
10	CCC 40.450.040(C)(6)	p. 18	<p>Wetland buffer standards. The current language in this code section mentions one key condition for other activities in a buffer but does not include the full list. The proposed amendment updates the code reference to point to the whole pertinent code section, so that all key conditions are included</p>
11	CCC Table 40.450.040-2	p. 22	<p>Wetland buffer standards. The proposed amendment revises the table heading so that it is more clear.</p>
12	CCC 40.450.040(D)(6)	p. 23	<p>Wetland buffer standards. The proposed amendment is regarding wetland buffers required for mitigation. The current wetland guidelines recommend full buffers for</p>

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			mitigation. The amended text would allow additional wetland mitigation to offset the loss of buffer function if the full buffers cannot be provided.
13	CCC 40.460.210(A)	p. 35	Map location. The proposed amendment clarifies where to find a copy of the Shoreline Map.
14	CCC 40.460.220(A)(3)	p. 38	Shift in ordinary high water mark due to restoration. In 2009, the Legislature created new “relief” procedures for instances in which a shoreline restoration project within an urban growth area creates a shift in the Ordinary High Water Mark. Clark County updated its SMP code to include this relief, however, staff implementing the SMP have raised questions about how to implement the relief procedures and that it would be helpful if the code were more clear on this topic. The proposed amendment would revise existing code language to better reference the state statute which explains the criteria and procedures that need to be followed for this circumstance in more detail and references another section of the shoreline master program that also addresses this topic.
15	CCC 40.460.230(B)(8)	p. 41	Freshwater docks. The Shoreline Management Act includes a dollar threshold for freshwater docks. If the construction of such a dock does not exceed the cost threshold, then it may be considered exempt from needing a Shoreline Substantial Development Permit. In 2014, the Legislature raised these cost thresholds, and required the Office of Financial Management (OFM) to adjust the cost threshold for inflation every five years, starting in 2018. OFM adopted the first adjustment to these thresholds effective November 4, 2018. The proposed amendment incorporates the updated dollar threshold amount and adds references to the OFM for the current value.
16	CCC 40.460.250(B)(7)	p. 43	On-water residences. The proposed amendment confirms that legally established on-water residences are a conforming use, consistent with state law.
17	CCC 40.460.430(B)(3), (C)(3), (D)(3), (E)(3), (F)(3), (G)(3), (H)(3); CCC 40.460.440(B)	pp. 45-52	Map location. These proposed amendments clarify where to find a copy of the Shoreline Map.
18	CCC 40.460.510(K)	pp. 54-55	Shift in ordinary high water mark due to restoration. In 2009, the Legislature created new “relief” procedures for instances in which a shoreline restoration project within an urban growth area creates a shift in the Ordinary High Water Mark. Clark County updated its SMP code to include this relief, however, staff implementing the SMP have raised questions about how to implement the relief procedures and that it would be helpful if the code were more clear on this topic. The proposed amendment would revise existing code language to better reference the state statutes which explains the criteria and procedures that need to be followed for this circumstance in more detail.
19	CCC 40.460.530(B) and (C)	p. 56	Critical areas. The county’s SMP is structured so that it incorporates the county critical areas code through reference. Ordinances that are proposed to be added to the SMP are those that have been adopted and need to be incorporated. The text has also been revised to include the most recent ordinance and date, rather than an ongoing list of ordinances. Proposed amendments to CCC 40.460.530(B) and (C) would improve SMP alignment with the county’s critical areas ordinances.

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20	CCC 40.460.530(F)(1)(a)(4)	p. 59	Priority habitats and species. In alignment with line item 5 above amending CCC 40.440.010(C)(1)(b)), this proposed amendment is intended to improve code clarity and update the current best available science documents on priority habitats and species. The proposed amendment would clarify that priority habitats and species areas are defined in the most current WDFW priority habitat and species list.
21	CCC 40.460.530(G)(1)(f); CCC 40.460.530(G)(1)(g)	p. 60	<p>Exceptions to wetland buffer standards. The current wetland buffer standards in Clark County Code are not completely in alignment with the 2016 wetland buffer guidance and Appendix C-8 of Wetlands in Washington State, Volume 2 (revised July 2018). However, staff are concerned about making wetland buffer updates countywide without a robust public process and discussion. Most of the proposed amendments to wetland buffer standards in the shoreline jurisdiction will result in little change in shoreline areas, with maybe a few additional shoreline variances needed for residential permits. As such, the following proposed amendments are intended to bring the SMP into alignment with current wetland buffer standards. The countywide wetland critical areas code will address these items in a future project that works to update the wetland critical areas ordinance in accordance with the Growth Management Act critical areas update requirements and timeline.</p> <ul style="list-style-type: none"> • CCC 40.460.530(G)(1)(f) - confirms that wetland buffer widths shall be determined by the Shoreline Administrator in accordance with the standards in Section 40.450.030 [the countywide critical areas ordinance code section on wetland protection standards], except as follows: <ul style="list-style-type: none"> ○ <i>The exceptions to urban plat requirements in Section 40.450.030(E)(3) do not apply in the Shoreline Management Area.</i> [The referenced code section states that wetlands and wetland buffers shall be placed within a nonbuildable tract with the following exceptions: a) creation of a nonbuildable tract would result in violation of minimum lot depth standards; or b) the responsible official determines a tract is impractical; c) Where the responsible official determines the exceptions in Section 40.450.030(E)(3)(a) or (b) apply residential lots may extend into wetlands and wetland buffers; provided, that all the requirements of Section 40.450.030(F) are met.] In shorelines, mitigation sequencing must be applied instead of these urban plat exceptions. The proposed change would bring the SMP into alignment with current wetland guidance. ○ <i>The adjusted buffer width standards in Section 40.450.030(E)(4)(a) shall be limited to a maximum width reduction of 25% from the required buffer at any location within the Shoreline Management Area.</i> The proposed change would bring the SMP into alignment with current wetland guidance. ○ <i>The adjusted buffer width standards in Sections 40.450.030(E)(4)(b)(2) and 40.450.030(E)(4)(c) do not apply in the Shoreline Management Area.</i> The first referenced code section (40.450.030(E)(4)(b)(2)) refers to distinct portions of wetlands with reduced habitat functions not being subject to habitat function buffers when certain criteria are met. The second referenced code section (40.450.030(E)(4)(c)) relates to

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			<p>maximum buffer areas under certain circumstances that are eligible for adjusted buffer width. The proposed revision to exclude the two noted sections from the shoreline management area will bring the SMP into alignment with current wetland guidance.</p> <ul style="list-style-type: none"> CCC 40.460.530(G)(1)(g) - clarifies that the wetland buffer reductions allowed in Section 40.450.040(C)(1) shall only be approved within the Shoreline Management Area if all applicable land use intensity modification measures listed are proposed. The proposed text also notes that the low impact development design buffer standards measure in Section 40.450.040(C)(1)(b) do not apply in Shoreline Management Areas.
22	CCC 40.460.530(G)(1)(m)	p. 61	<p>Avoidance, minimization, and mitigation sequence. The avoidance, minimization, and mitigation sequence as outlined in WAC 173-26-201(2)(e) applies to wetland buffers to ensure no net loss of ecological functions for new development in shorelines. While the SMP has been implementing this approach, SMP code language could be more clear about it. An amendment is proposed to CCC 40.460.530(G)(1)(m) to clarify that the avoidance, minimization, and mitigation sequence in Section 40.460.530(A)(10) applies to wetland buffers.</p>
23	CCC 40.460.530(G)(3)(a)(2)	p. 61	<p>Wetland buffer standards. The proposed amendment corrects code to say that stormwater facilities are only allowed in buffers of wetlands with low habitat function (less than six points). The code was outdated and currently says five points; this change will make this sentence in alignment with current wetland buffer guidelines. Additional clarification to this code section would specify that stormwater facilities need to be built on the outer 25% of the buffer, cannot degrade the existing buffer function, and must be designed to blend in with the natural landscape. These additional statements also make the code better aligned with current wetland buffer guidance.</p>
24	CCC 40.460.530(G)(3)(f)	p. 62	<p>Wetland buffer standards. The proposed amendment adds a statement regarding mitigation ratios for each of the mitigation types described in Section 40.460.530(G)(3)(e) and specified in Section 40.450.040(D)(4) such that Section 40.450.040(D)(4)(c)(4) does not apply to the SMP. This referenced section that doesn't apply to the SMP states that in wetlands where several HGM classifications are found within one (1) delineated wetland boundary, the areas of the wetlands within each HGM classification can be scored and rated separately and the mitigation ratios adjusted accordingly if certain conditions apply. This statement is inconsistent with current wetland mitigation and rating guidance and the amendment would improve SMP alignment with current guidelines.</p>
25	CCC 40.460.530(G)(3)(h)(2)	p. 63	<p>Wetland buffer standards. The proposed amendment updates the reference for wetland buffer width reductions. This amendment will provide better internal SMP document consistency.</p>
26	CCC 40.460.530(G)(3)(i)(1)	p. 63	<p>Wetland buffer standards. The proposed amendment references the code section that establishes wetland mitigation reduction limitations. This amendment will make county code more clear, and help link the two code sections that cover wetland buffer mitigation reductions and reduction limitations.</p>

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27	CCC 40.460.530(G)(3)(j)	p. 63	Wetland buffer standards. The proposed amendment clarifies that alternate wetland mitigation credit options include the current in-lieu-fee program.
28	CCC 40.460.630(B)(13)	p. 65	Aquaculture. The proposed amendment would add reference to a 2018 law regarding net pen aquaculture, RCW 77.125.050. The law prohibits marine net pen aquaculture activities for nonnative finfish species unless these activities are performed under a lease of state-owned aquatic lands in effect on June 7, 2018.
29	CCC 40.460.630(J)(5)	p. 75	Public boat ramps. The Recreational Uses code section as currently written does not allow most structures in a floodway, but some structures such as boat ramps need to be located within a floodway. The proposed amendment would add clarifying language in the recreational uses section to allow boat ramps within a floodway.
30	CCC 40.460.630(K)(11), (12), and (13)	pp. 76-77	<p>Floating homes and on-water residences. The Shoreline Management Act establishes that floating homes legally established as of January 1, 2011 and floating on-water residences legally established in the State of Washington prior to July 1, 2014 are conforming uses, but these types of homes built after the specified dates are prohibited. The county's SMP already addresses the cut-off dates for each of these residences, but is unclear about whether or not these residences can be moved to Washington from another state and whether or not they are allowed to move locations within the county.</p> <ul style="list-style-type: none"> Clarifying language is proposed that explains floating homes and on-water residences moved from outside the State of Washington are prohibited and that new marinas or other moorages for floating homes and on-water residences are also prohibited. Clarifying language is proposed that a floating home or on-water residence must be moored at an authorized or grandfathered marina or moorage facility, as described in WAC 332-30-171, and consistent with other relevant sections of Clark County Code. Clarifying language is proposed to explain that a floating home or on-water residence may relocate to an authorized, existing residential slip, as described in WAC 332-30-171, and consistent with other relevant sections of Clark County Code.
31	CCC 40.460.710(A)(2); CCC 40.460.710(A)(5)	pp. 80-81	<p>Shoreline Management Review Committee. The county has run into issues with reorganization of county departments such that two of the three Shoreline Management Review Committee (SMRC) members are now in the same department (the Public Works Director and the Parks and Land Manager are both part of Public Works). This proposal would revise the make-up of the SMRC to ensure that members of the SMRC are not in the same department and to be more flexible if county reorganizations happen in the future.</p> <p>Also related to the SMRC, an amendment is proposed to help streamline SMP projects with a concurrent Type III land use action. Since the Type III land use action will go before the Hearing Examiner for a determination pursuant to Section 40.510.030, the SMRC authority granted in CCC 40.460.710(A)(3) can be ceded to the Hearing Examiner in these cases so that a separate SMRC process is not necessary in</p>

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			addition to the Hearing Examiner process. Instead, the two processes can be merged.
32	CCC 40.460.710(E)	p. 82	Use of return receipt. Ecology amended rules clarifying permit filing procedures consistent with a 2011 statute. One of the requirements is for permit submittals to Ecology to use return receipt requested mail. This proposed amendment would add this requirement into code.
Shoreline Map Amendments			
33	Shoreline map	pp. 83, 85-86 and Exhibit 3 map B1 and C1	Carty Lake. The Shoreline Management Act guidelines require that SMPs include a list and a map of streams and lakes that are in shoreline jurisdiction. Carty Lake was mistakenly left out of the Clark County SMP during the 2012 SMP update. It was later added to the list of lakes in the SMP in Clark County Code 40.460.210(B), however, it has not yet been added to the shoreline map. The proposed amendment to add Carty Lake to the shoreline map would keep the map current and improve consistency between the shoreline map and Clark County Code. This proposed change would add approximately 45.48 acres of aquatic designation to the shoreline map.
34	Shoreline map	pp. 83, 85-86 and close-up in Exhibit 3 map D2 and D3	Revised flood maps – Washougal, Little Washougal, Columbia. Within the unincorporated county, new Federal Emergency Management Agency (FEMA) Insurance Rate Maps went into effect in January, 2018 for the Washougal River, Little Washougal River and tributary, and the Columbia River from the City of Washougal east to Skamania County. Since the 100-year floodplain is one of the criteria for determining the shoreline management area, this map amendment would update the shoreline boundary in areas where the 100-year floodplain has changed and resulted in a shift of the shoreline boundary. This proposed change would add approximately 62.06 acres of rural conservancy resource land designation, 0.62 acres of medium intensity designation, and 0.25 acres of rural conservancy residential designation to the shoreline map.
35	Shoreline map	pp. 83, 85-86 and close-up in Exhibit 3 map D2 and D3	Revised floodplain near Lacamas Lake. In the process of reviewing the shoreline jurisdiction for the above flood map changes, staff noticed a portion of the 100-year floodplain that was missing from the shoreline jurisdiction near Lacamas Lake. Since the 100-year floodplain is one of the criteria for determining shoreline jurisdiction, this map amendment would update the shoreline boundary along a portion of Lacamas Lake. This proposed change would add approximately 19.99 acres of urban conservancy designation to the shoreline map.
36	Shoreline map	pp. 83, 85-86 and close-up in Exhibit 3 map D2 and D3	Wetlands near Shanghai Creek. Associated wetlands are one of the criteria for determining shoreline jurisdiction. There is an area of wetlands near Shanghai Creek, which county and Ecology staff have confirmed are not actually considered associated wetlands. This was based on multiple site visits to the area for various development projects. Since on the ground shoreline boundary mapping overrides what is on the shoreline map, there have been a handful of projects in this area that did not receive any kind of shoreline permit or exemption because it was determined those projects were not actually within shoreline jurisdiction.

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			<p>Based on this information, and to keep the shoreline map as current as possible, this amendment would remove the portion of wetlands near Shanghai Creek that are not considered associated wetlands and are not considered within shoreline jurisdiction. If removed from the shoreline map, these wetlands would be protected by the county wetland protection code instead of the shoreline master program.</p> <p>This proposed change would remove approximately 86.80 acres of rural conservancy residential designation, 211.76 acres of rural conservancy resource designation, and 16.07 acres of urban conservancy designation from the shoreline map.</p>
37	Shoreline map	pp. 83, 85-86 and close-up in Exhibit 3	<p>Updated Department of Natural Resources Water Feature Layer. The streams and lakes shown on the shoreline designation map are based on Department of Natural Resources (DNR) water features. A Clark County constituent notified the county about Mill Pond being recognized by the Department of Natural Resources as a waterbody since the 2012 Shoreline Master Program update. In order to keep the county shoreline designation map current, the current DNR water feature data will be used to show waterbodies and waterbody labels on shoreline maps.</p>
38	Shoreline map	pp. 83-86 and close-up in Exhibit 3 map B1 and C1	<p>Columbia-Lewis River Confluence Updates. Plas Newydd LLC owns property near the confluence of the Columbia and Lewis rivers. The company is currently working on becoming certified as a conservation and wetland mitigation bank by the State Department of Ecology. In the process of planning for this project, the organization has conducted detailed mapping work of its property. The data the organization has collected has been reviewed by Clark County and Department of Ecology staff. Adjustments to the shoreline map designations and boundaries are proposed based on the additional detailed data provided, to more accurately indicate the shoreline designations and boundaries.</p> <p>Incorporation of the additional data into the shoreline designation map does not revise critical areas maps adopted or maintained under the Growth Management Act or replace site specific determinations of the extent of the Shoreline Management Area and boundaries between mapped shoreline designations for future permit or statement of exemption applications. Field verified site specific conditions will be used for any future application pursuant to Clark County Code 40.460.440(D)(4).</p> <p>This proposed change would add approximately 0.01 acres of natural designation, 0.02 acres of rural conservancy residential designation and 14.45 acres of rural conservancy resource land to the shoreline map. This proposed change would remove approximately 0.02 acres of aquatic designation, 0.86 acres of rural conservancy residential designation, 0.02 acres of natural designation, and 97.60 acres of rural conservancy resource land from the shoreline map. This proposed change would change approximately 125.65 acres of aquatic designation to rural conservancy resource land designation and change approximately 41.31 acres from rural conservancy resource land designation to aquatic designation. In summary, this change would add approximately 14.48 acres of land to the shoreline map, remove 98.51 acres from the shoreline map, and change the designation of approximately 166.96 acres of land.</p>

Any person(s) or entity(ies) wishing to appeal a determination of non-significance shall file a written petition with the County Council at the Public Service Center, 1300 Franklin St, Vancouver, WA, 98660, within fourteen (14) calendar days of the issuance of this Clark County Planning Commission Recommendation. The County Council shall decide a SEPA appeal in conjunction with its decision made in a public hearing on the underlying recommendation in accordance with CCC 40.570.080.D.2.b(2). The date and time of the County Council public hearing on this recommendation will be published in The Columbian newspaper at least two weeks before the hearing, and will be posted at www.clark.wa.gov/council-meetings.

SEPA appeals must be written and must contain all of the following:

1. the case number designated by the county;
2. the name and original signature of each petitioner for the appeal;
3. a statement showing that each petitioner is entitled to file the appeal as an interested party;
4. the specific aspect(s) of the decision being appealed;
5. the reasons why each aspect is in error as a matter of fact or law; and
6. the evidence or law relied on to prove the error.

The case file is available for review online at www.clark.wa.gov/community-planning/planning-commission-hearings-and-meeting-notes or at 1300 Franklin Street, Vancouver, WA between 8:00 am and 5:00 PM M-F. Contact **Sonja Wiser (564) 397- 4558** or **Sonja.Wiser@clark.wa.gov**.